IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3476 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR
and
Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASHOKBHAI SURYAKANT PATEL CHAIRMAN MIHIR MEMBER ASSO.
Versus
AHMEDABAD MUNICIPAL CORPO.

Appearance:
MR BG PATANI for Petitioner
MR AMIT M PANCHAL for the respondent Ahmedabad Municipal Corporation.

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR
and
MR.JUSTICE H.K.RATHOD

Date of decision: 15/05/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE PRADIP KUMAR SARKAR)

This Division Bench is specially constituted as per the order passed by the Hon'ble the Chief Justice.

Rule. Mr. Amit M. Panchal, learned counsel waives service of rule on behalf of the respondent.

Heard learned advocates.

The petitioner and others are residents of a high rise building known as "MIHIR TOWER" which is being occupied by them since the year 1987. The building is being used for residential purposes. Mr. B.G. Patni, learned counsel appearing for the petitioners states that he does not challenge the impugned notice issued by the respondent Ahmedabad Municipal Corporation and in the presence of the petitioner, Ashokbhai Suryakant Patel, states that the petitioner will deposit a sum of Rs.5,00,000.00 (Rupees five lacs only) with the Ahmedabad Municipal Corporation within a period of fifteen days from today. He further states that the building will be effectively and adequately installed with the Fire Protection and Prevention Systems as required by the Ahmedabad Municipal Corporation within a period of six weeks from today. He states that all the 45 Flats in the building are occupied and there are about 250 persons residing therein. He states that the petitioner and the residents would apply to the Ahmedabad Municipal Corporation for Building Use Permission after installation of the Fire Safety Measures as aforesaid and in any event the application shall be made by twelve weeks from today. He states that the petitioner and the residents shall also take all steps necessary to ensure that the building is brought in conformity with the provisions of the Bombay Provincial Municipal Corporations Act, 1949 and the Building Bye Laws framed thereunder. He states that the petitioner and the residents would pay the charges for reconnection of essential supplies to the building.

Mr. Patni states that the undertaking to the above effect would be filed by the petitioner in this Court within a period of two days from today, and a copy of the same will be served to Mr. Panchal, learned Counsel appearing for the respondent Corporation.

The undertaking to be filed accordingly. On such undertaking being filed and served to Mr. Panchal, the Ahmedabad Municipal Corporation is directed to restore the essential supplies so disconnected and in the event of the same not having been disconnected, the same shall not be so done. Needless to say that the reconnection of

the essential supplies would be on payment of the necessary charges by the petitioner or the residents.

It is required to be noted that we are issuing the aforesaid directions after considering the fact that the building in question is a residential building and is being used since the year 1987 by 45 families who have occupied the building. We are passing this order after considering the peculiar facts and circumstances of the present case and after perusing the orders passed by the Division Bench of this Court in connected matters and to avoid inconvenience to the residents of the building in question. We clarify that by this order, we do not find any infirmity in the notices issued by the Corporation and we are not legalizing any act of the petitioner or its occupiers. It is also clarified that in the event of there being any breach of the undertaking or if the undertaking is not filed as aforesaid, the respondent Ahmedabad Municipal Corporation is at liberty to take action in accordance with the provisions of the Bombay Provincial Municipal Corporations Act, 1949 and the notices shall stand revived.

Rule is made absolute to the aforesaid extent with no order as to costs.

Direct Service is Permitted.

15.5.2001. (Pradeep Kumar Sarkar,J.)

(H.K. Rathod,J.)

Vyas